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EXAMINER

YOUNG, JOHN L

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/545,991

Applicant(s)

Freeman

Examiner

John Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 9, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-30 and 32-49 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-30 and 32-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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FINAL REJECTION

(Paper#14)

STATUS

1. **Claims 15-30 and 32-49 are pending.**

Claim 31 is canceled by Applicant (see Amendment B; paper#12; p. 7).

Claims 43-49 are added by Applicant (see Amendment B; paper#12, pp. 1-11.

DRAWINGS

2. **NOTE:** This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

ABSTRACT OBJECTION—37 CFR 1.72(b)

3. **Objection Withdrawn.**

REQUIREMENT FOR INFORMATION—37 CFR 1.105

4. **Response Acknowledged.**

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NONSTATUTORY DOUBLE PATENTING

5. The terminal disclaimer filed on 5/31/2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,134,557 has been reviewed and is accepted. The terminal disclaimer has been recorded.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 15-30 & 32-49 are rejected under 35 U.S.C. §103(a) as being obvious over Logica's Integration and Automation of Work Management System Gives SaskEnergy Competitive Advantage," Business Wire 15 September 1997, pp. 1-2) (herein referred to as "Business Wire") in view of Wakiyama 5,806,069 (09/08/1998) (herein referred to as "Wakiyama") and further in view of Brown 5,923,552 (07/13/1999) [US f/d: 12/31/1996] (herein referred to as "Brown").

As per claim 15, (NOTE: It is well settled in the law that a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments. (See *Merck & Co. Inc. V. Biocraft Laboratories Inc.*, 10 USPQ2d 1843 (CAFC 1989)).

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Business Wire (pp. 1-2) reasonably suggests “A contractor/customer ordering computer program product, tangibly embodied on a machine-readable medium, comprising instructions operable to cause a programmable processor to: initiate a contractor/customer ordering computer program. . . .”

Business Wire lacks an explicit recitation of “A contractor/customer ordering computer program product, tangibly embodied on a machine-readable medium, comprising instructions operable to cause a programmable processor to: initiate a contractor/customer ordering computer program. . . .”

Brown (col. 6, ll. 1-67; and col. 7, ll. 40-55) discloses “*communicating a selection to the supplier system. . . .*” In this case, the Examiner interprets this disclosure as showing “display a menu from which the contractor/customer selects. . . .”

Brown (col. 4, ll. 5-12; and col. 7, ll. 1-5) discloses: “*work stages may include . . . grading the lot upon which a house is to be built, digging the foundation, pouring the footings . . . framing the structure, placing a roof over the framing, covering the framing with sheathing, laying up brick veneer, and finishing the inside of the house. Each of these work stages . . . will be sequentially arranged. . . .*” In this case, the Examiner interprets this disclosure as showing “the classification associated with a construction phase, the contractor/customer further selecting a set of construction materials or products within the classification. . . .”

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Brown (col. 9, ll. 15-42) discloses “*Schedules can be at different scales, with more detailed schedules inside of lesser detailed schedules. . . . CPM scheduling techniques . . . permit restrictions and relationships to be established between a broad range of work stages and project scales. . . .*” The Examiner also interprets this disclosure as showing “the classification associated with a construction phase. . . .”

Brown (col. 17, ll. 1-8) discloses: “*thirteen different catalog configurations containing products created by 3 different manufacturers are available to network members.*” The Examiner interprets this disclosure as inherently showing “display a set of specific material or product names corresponding to at least one of the selected construction materials or products, the set of specific material or product names being dependent on an identified supplier such that the set includes only names of specific materials or products that are provided by the identified supplier. . . .”

Brown proposes work stage, classification and catalog modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Brown because such combination would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized*

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engineering and construction management functions with decentralized customer service delivery. . . .” (see Business Wire (p. 1, ll. 8-13)).

Business Wire lacks an explicit recitation of “in response to the contractor/customer selecting one or more of the displayed specific material or product names and a specific quantity desired for each selected specific material or product name, record the specific material or product name and a quantity for each specific material or product name selected; generate a list displaying the specific material or product name and the quantity for each specific material or product name selected; enable the contractor/customer to access at least one of a SKU number, a UPC, a bar code, and a material or product number for each individual material or product name selected; and cause data corresponding to the list and data pertaining to contractor/customer identification information entered into the ordering program to be transferred to the identified supplier.”

Wakiyama (the ABSTRACT; FIG. 8; FIG. 15; FIG. 16; FIG. 19; FIG. 20; FIG. 22; FIG. 26; FIG. 27; FIG. 34; col. 3, ll. 42-50; col. 12, ll. 14-29; col. 9, ll. 57-67; col. 10, ll. 47-67; col. 16, ll. 32-67; col. 17, ll. 1-67; col. 18, ll. 1-67; col. 22, ll. 7-67; col. 23, ll. 1-67; col. 24, ll. 1-67; col. 27, ll. 45-67; col. 28, ll. 35-67; and col. 29, ll. 3-67) shows “in response to the contractor/customer selecting one or more of the displayed specific material or product names and a specific quantity desired for each selected specific material or product name, record the specific material or product name and a quantity for

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each specific material or product name selected; generate a list displaying the specific material or product name and the quantity for each specific material or product name selected; enable the contractor/customer to access at least one of a SKU number, a UPC, a bar code, and a material or product number for each individual material or product name selected; and cause data corresponding to the list and data pertaining to contractor/customer identification information entered into the ordering program to be transferred to the identified supplier.”

Wakiyama proposes “supplier identification” and specific product number and part name, stock keeping unit (SKU) universal product code [UPC] or bar code for each material or product modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Wakiyama because such combination would have provided “*a method of totally managing construction-related information and production-related information with improved efficiency. . . .*” (see Wakiyama (col. 1 ll. 60-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)) and because such combination would have provided

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means to *"facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . ."* (see Brown (col. 1, ll. 55-65)).

As per claim 16, Business Wire in view of Wakiyama and further in view of Brown shows the program of claim 15. (See the rejection of claim 15 supra).

Business Wire (pp. 1-2) shows transferring the list and data pertaining to contractor/customer identification information elements and limitations of claim 16; however,

Business Wire lacks an explicit recitation of the transferring elements and limitations of claim 16.

Wakiyama (the ABSTRACT; FIG. 19; col. 9, ll. 57-67; col. 10, ll. 47-67; col. 16, ll. 32-67; col. 17, ll. 1-67; col. 18, ll. 1-67; col. 22, ll. 7-67; col. 23, ll. 1-67; col. 24, ll. 1-67; col. 27, ll. 45-67; col. 28, ll. 35-67; and col. 29, ll. 3-67) shows the transferring elements and limitations of amended claim 16.

Wakiyama in view of Business Wire proposes transferring modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Wakiyama because such combination would have provided *"a method of totally managing construction-related information and production-related information with improved efficiency. . . ."* (see Wakiyama (col. 1 ll.

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60-65)) and because such combination would have provided means *“to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .”* (see Business Wire (p. 11. 8-13)) and because such combination would have provided means to *“facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .”* (see Brown (col. 1, ll. 55-65)).

As per claims 17-27, Business Wire in view of Wakiyama and further in view of Brown (whole document) shows the program of claim 15. (See the rejection of claim 15 supra).

Business Wire (pp. 1-2) shows elements that suggest the elements and limitations of claims 17-27.

Business Wire lacks an explicit recitation of the elements and limitations of claims 17-27, even though Business Wire suggests same.

“Official Notice” is taken that both the concepts and the advantages of the elements and limitations of claims 17-27 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided *“a method of totally managing construction-related information and*

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production-related information with improved efficiency. . . .” (see Wakiyama (col. 1 ll. 60-65)) and because such combination would have provided means “to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .” (see Business Wire (p. 11. 8-13)).

Independent claim 28 is rejected for substantially the same reasons as claim 15.

Dependent claims 29-30 and 32-40 are rejected for substantially the same reasons as claims 16-17 and 19-27 respectively.

Independent claim 41 is rejected for substantially the same reasons as claim 15.

Dependent claim 42 is rejected for substantially the same reasons as claim 27.

As per independent claim 43, (NOTE: It is well settled in the law that a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments. (See *Merck & Co. Inc. V. Biocraft Laboratories Inc.*, 10 USPQ2d 1843 (CAFC 1989)).

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Business Wire (pp. 1-2) reasonably suggests “A method for facilitating the ordering of construction supplies by a customer . . . providing the customer with a phase list comprising references to each of a plurality of construction phases . . . receiving a customer selection of a construction phase from the phase list. . . .”

Business Wire lacks an explicit recitation of “A method for facilitating the ordering of construction supplies by a customer . . . providing the customer with a phase list comprising references to each of a plurality of construction phases . . . receiving a customer selection of a construction phase from the phase list. . . .”

Brown (col. 6, ll. 1-67; and col. 7, ll. 40-55) discloses “*communicating a selection to the supplier system. . . .*”

Brown (col. 15, ll. 1-67; col. 17, ll. 40-55; col. 2, ll. 55-62; col. 17, ll. 1-67; and col. 4, ll. 2-60; col. 7, ll. 1-20; col. 7, ll. 55-65; col. 8, ll. 25-30; col. 9, ll. 3-7; col. 9, ll. 38-50; col. 10, ll. 16-25; col. 13, ll. 13-20; and col. 6, ll. 1-67; and col. 7, ll. 40-55) shows “A method for facilitating the ordering of construction supplies by a customer . . . providing the customer with a phase list comprising references to each of a plurality of construction phases . . . receiving a customer selection of a construction phase from the phase list . . . providing the customer with a supply list comprising references to a plurality of supplies associated with the selected construction phase, the plurality of supplies being available from the indicated supplier; allowing the customer to make a supply selection of at least one supply from the supply list; recording the supply selection; listing the supply

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selection; allowing the customer to remove supply selections from the listing; and transferring the list to the indicated supplier in response to an order send command.” In this case, the Examiner interprets “*work stages*” as showing “construction phases.” And in this case, the Examiner interprets “*communicating a selection to the supplier system. . . .*” as showing receiving a customer selection of a construction phase from the phase list. . . .”

Brown proposes Internet catalog and ordering modifications, as well as “construction phase” modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Brown because such combination would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)).

Business Wire lacks an explicit recitation of “receiving a supplier reference indicating a supplier. . . .”

Wakiyama (col. 3, ll. 40-51) discloses “*data indicating the suppliers. . . .*”

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Wakiyama proposes “supplier identification” modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Wakiyama because such combination would have provided “a *method of totally managing construction-related information and production-related information with improved efficiency. . . .*” (see Wakiyama (col. 1 ll. 60-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)) and because such combination would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)).

As per claim 44, Business Wire in view of Wakiyama and further in view of Brown shows the method of claim 43. (See the rejection of claim 43 supra).

Business Wire (pp. 1-2) reasonably suggests “wherein the phase list comprises at least one phase associated with constructing a building.”

Business Wire lacks an explicit recitation of “wherein the phase list comprises at least one phase associated with constructing a building.”

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Brown (col. 13, ll. 10-67) shows “wherein the phase list comprises at least one phase associated with constructing a building.”

Brown proposes building construction modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Brown because such combination would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)).

As per claim 45, Business Wire in view of Wakiyama and further in view of Brown shows the method of claim 43. (See the rejection of claim 43 supra).

Business Wire (pp. 1-2) reasonably suggests “wherein the phase is selected from at least one of a wiring phase; a plumbing phase; a flooring phase; a kitchen and bath phase; a lighting phase; a foundation phase; a siding phase; a heating and cooling phase; and a windows and doors phase.”

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Business Wire lacks an explicit recitation of “wherein the phase is selected from at least one of a wiring phase; a plumbing phase; a flooring phase; a kitchen and bath phase; a lighting phase; a foundation phase; a siding phase; a heating and cooling phase; and a windows and doors phase.”

Brown (col. 4, ll. 3-60) shows “wherein the phase is selected from at least one of a wiring phase; a plumbing phase; a flooring phase; a kitchen and bath phase; a lighting phase; a foundation phase; a siding phase; a heating and cooling phase; and a windows and doors phase.”

Brown proposes “foundation” and “brick veneer” construction finishing modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Brown because such combination would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)).

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As per claim 46, Business Wire in view of Wakiyama and further in view of Brown shows the method of claim 43. (See the rejection of claim 43 supra).

Business Wire (pp. 1-2) reasonably suggests “providing the customer with a supplier list and allowing the customer to select a supplier from the supplier list.”

Business Wire lacks an explicit recitation of “providing the customer with a supplier list and allowing the customer to select a supplier from the supplier list.”

Brown (col. 2, ll. 15-34; col. 2, ll. 45-62; col. 6, ll. 1-67; and col. 7, ll. 40-55) shows “providing the customer with a supplier list and allowing the customer to select a supplier from the supplier list.”

Brown proposes “supplier list” and selection modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Brown because such combination would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)).

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As per claim 47, Business Wire in view of Wakiyama and further in view of Brown shows the method of claim 43. (See the rejection of claim 43 supra).

Business Wire (pp. 1-2) shows “wherein the supply list includes construction materials.”

Business Wire lacks an explicit recitation of “wherein the supply list includes construction materials.” It would have been obvious that the disclosure of Business Wire (pp. 1-2), i.e., “[*improved*] construction time/material reporting management. . . .” would have been selected in accordance with “wherein the supply list includes construction materials. . . .” because such selection would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)).

As per claim 48, Business Wire in view of Wakiyama and further in view of Brown shows the method of claim 43. (See the rejection of claim 43 supra).

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Business Wire (pp. 1-2) reasonably suggests “wherein the supply list includes tools.”

Business Wire lacks an explicit recitation of “wherein the supply list includes tools.” It would have been obvious that the disclosure of Business Wire (pp. 1-2), i.e., “[*improved*] construction time/material reporting management. . . .” would have included a supply list which includes construction materials would inherently include tools relating to construction materials and projects and therefore would have been selected in accordance with “wherein the supply list includes tools” because such selection would have provided means to “*facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . .*” (see Brown (col. 1, ll. 55-65)) and because such combination would have provided means “*to both automate all traditional ‘paper-based’ processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . .*” (see Business Wire (p. 1, ll. 8-13)).

As per claim 49, Business Wire in view of Wakiyama and further in view of Brown shows the method of claim 43. (See the rejection of claim 43 supra).

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Business Wire (pp. 1-2) reasonably suggests “wherein the listing includes for each supply selection, a part name and at least one of a merchant specific part number, a SKU, a universal product code, and a bar code.”

Business Wire lacks an explicit recitation of “wherein the listing includes for each supply selection, a part name and at least one of a merchant specific part number, a SKU, a universal product code, and a bar code.”

Wakiyama (the ABSTRACT; FIG. 8; FIG. 15; FIG. 16; FIG. 19; FIG. 20; FIG. 22; FIG. 26; FIG. 27; FIG. 34; col. 3, ll. 42-50; col. 12, ll. 14-29; col. 9, ll. 57-67; col. 10, ll. 47-67; col. 16, ll. 32-67; col. 17, ll. 1-67; col. 18, ll. 1-67; col. 22, ll. 7-67; col. 23, ll. 1-67; col. 24, ll. 1-67; col. 27, ll. 45-67; col. 28, ll. 35-67; and col. 29, ll. 3-67) in view of Brown (col. 2, ll. 15-34; col. 2, ll. 45-62; col. 6, ll. 1-67; and col. 7, ll. 40-55) shows “wherein the listing includes for each supply selection, a part name and at least one of a merchant specific part number, a SKU, a universal product code, and a bar code.”

Wakiyama proposes specific product number or part name or stock keeping unit (SKU) or universal product code [UPC] or bar code modifications that would have applied to the system of Business Wire. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Business Wire with the disclosure of Wakiyama because such combination would have provided “*a method of totally managing construction-related information and production-related information with improved efficiency. . . .*” (see Wakiyama (col. 1 ll. 60-65)) and

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because such combination would have provided means *"to both automate all traditional 'paper-based' processes across a wide area client/server network, and to integrate centralized engineering and construction management functions with decentralized customer service delivery. . . ."* (see Business Wire (p. 1, ll. 8-13)) and because such combination would have provided means to *"facilitate prompt dissemination of product information from manufacturers to others downstream in the distribution chain. . . ."* (see Brown (col. 1, ll. 55-65)).

RESPONSE TO COMMENTS

7. Applicant's arguments (Amendment B, paper#12, filed 05/31/2003) concerning the rejections in the prior Office Action have been considered but are not persuasive for the following reasons:

The rejection of claim 31 of the prior Office Action is not withdrawn but is moot based upon Applicant's cancellation of said claim.

Applicant's arguments (Amendment B, paper#12, filed 05/31/2003) concerning the obviousness rejections of claims 15-30 & 32-42 are moot based on new grounds of rejection necessitated by Applicant's Amendment B.

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As per claims 15-30 & 32-42, Applicant's arguments (Amendment B, paper#12, p. 13, ll. 10-26; and p. 14, ll. 1-9) asserts that the prior art references "either alone or in combination, fail to disclose or suggest instructions operable to cause a programmable processor to 'display a menu from which the contractor/customer selects a classification of construction materials or products, the classification associated with a construction phase, the contractor/customer further selecting a set of construction materials or products within the classification.'" And, Applicant's arguments allege that "claims 16-27 depend from claim 15 and thus derive patentability at least therefrom. . . . [and] claims 28 and 41, as amended, should be allowable for at least a similar rationale as discussed with respect to claim 15. Claims 29-40 depend from claim 28 and thus derive patentability at least therefrom. Claim 42 depends from claim 41 and thus derives patentability at least therefrom."

This is not the case; new grounds of rejection based on Brown (col. 6, ll. 1-67; col. 7, ll. 40-55; col. 4, ll. 5-12; and col. 7, ll. 1-5) in view of Business Wire and Wakiyama shows "a programmable processor to 'display a menu from which the contractor/customer selects a classification of construction materials or products, the classification associated with a construction phase, the contractor/customer further selecting a set of construction materials or products within the classification.'" For example, see the rejection of claim 15 supra).

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Furthermore, as per, for example, claims 17-27, 30-40 & 42, (i.e., all of the claims which were rejected based on Official Notice in a prior Office Action) Applicant's response fails to seasonably challenge Official Notice evidence presented in said Prior Office Action.

It is well settled that "Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made. . . . A challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice. . . . If [A]pplicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, [A]pplicant is charged with rebutting the well known statement in the next reply after the Office action in which the well known statement was made" (See MPEP 2144.03 Reliance on Common Knowledge in the Art or 'Well Known' Prior Art 8 ed., August 2001, pp. 2100-129 and 2100-130).

In this instance, Applicant's Response (Amendment B, paper#12) fails to demand a reference in support of the Official Notice evidence cited by the Examiner in the prior Office action concerning the obviousness rejections of the claims which were rejected based on Official Notice. And, Applicant's Response lacks adequate information or

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argument to create on its face a reasonable doubt regarding the circumstances justifying the Official Notice and thereby fails to seasonably challenge the Official Notice rejections of the instant invention; therefore, said Official Notice evidence is deemed admitted.

In response to Applicant's argument (Amendment B, paper#12, p. 14, ll. 10-23) which alleges that "the cited references do not disclose or suggest every element of new claims 43-49. . . .", Brown (col. 15, ll. 1-67; col. 17, ll. 40-55; col. 2, ll. 55-62; col. 17, ll. 1-67; and col. 4, ll. 2-60; col. 7, ll. 1-20; col. 7, ll. 55-65; col. 8, ll. 25-30; col. 9, ll. 3-7; col. 9, ll. 38-50; col. 10, ll. 16-25; col. 13, ll. 13-20; and col. 6, ll. 1-67; and col. 7, ll. 40-55) in view of Business Wire and Wakiyama shows "providing the customer with a phase list comprising references to each of a plurality of construction phases; receiving a customer selection of a construction phase from the phase list; providing the customer with a supply list comprising references to a plurality of supplies associated with the selected construction phase, the plurality of supplies being available from the indicated supplier. . . ." (see the rejection claim 43 supra).

For these reasons the instant application stands rejected.

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THIS ACTION IS MADE FINAL.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

CONCLUSION

8. Any response to this action should be mailed to:

Box AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



John L. Young

Patent Examiner

June 27, 2003